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Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	Civ. No. CV03 00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	DECLARATION OF TIMOTHY J.
vs.)	HOGAN IN SUPPORT OF
)	PLAINTIFF WAYNE BERRY'S
HAWAIIAN EXPRESS SERVICE,)	MOTION <i>IN LIMINE</i> TO
INC., a California corporation; et al.)	EXCLUDE ANY TESTIMONY OF
)	MARTIN WALKER (Plaintiff No.
)	2); EXHIBITS "1" TO "5"
)	
Defendants.)	
_____)	

**DECLARATION OF TIMOTHY J. HOGAN IN
SUPPORT OF PLAINTIFF WAYNE BERRY'S MOTION
IN LIMINE TO EXCLUDE ANY TESTIMONY OF
MARTIN WALKER (Plaintiff No. 2)**

I, TIMOTHY J. HOGAN, hereby make the following declaration under
penalty of perjury. I I am an attorney with the law firm of Lynch Ichida

Thompson Kim & Hirota, which represents Plaintiff in the above-captioned matter.

I am competent and willing to testify regarding the matters contained herein.

1. Attached hereto as Exhibit "1" is a true and correct copy of an email I received from Damian Capozzola, on February 14, 2006, that for the first time, to the best of my knowledge, disclosed the existence of the CD that had been given to Mr. Walker in March 2005.

2. Attached hereto as Exhibit "2" is a true and correct email dated February 14, 2006, from me to Damian Capozzola requesting the CD given to Walker in March and questing the gap in Walker's time records. I have not received the CD nor has the PCT or C&S through its concurrent counsel responded to my request.

3. Attached hereto as Exhibit "3" is a true and correct copy of an email dated February 13, 2006, from Damian Capozzola to me that contained a transmittal of a pdf containing 52 pages of materials that were not turned over previously.

4. Attached hereto as Exhibit "4" is a true and correct excerpt of the initial Expert Report of Martin Walker.

5. Attached hereto as Exhibit "5" is a true and correct of an email from me to Mr. Capozzola dated February 15, 2006 requesting again that he provide me

a copy of the CD and allow me to inspect the original. I erroneously state that the email was delivered to me last week. I received it the day before this email on February 14, 2006. I have not received the CD or any response from either the PCT or its concurrent counsel representing C&S Mr. Smith.

DATED: Honolulu, Hawai'i, February 22, 2006.

/s/ Timothy J. Hogan
TIMOTHY J. HOGAN
Attorney for Plaintiff WAYNE BERRY